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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/892,351

06/28/2001

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2176

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07/31/2007

EXAMINER

LE, BRIAN Q

ART UNIT.

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/892,351

Applicant(s)

DAWSON, MARK THOMAS

Examiner

Brian Q. Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 53-86 is/are pending in the application.
- 4a) Of the above claim(s) 59-79 and 81-85 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 53-58, 80 and 86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Amendment and Arguments

1. Applicant's arguments with regard to claims 53-58 and 80 have been fully considered, but are not considered persuasive because of the following reasons:

Regarding the referred paragraph (0009) of the Application, the Applicant seems to argue the difference between the specification of the invention and the prior arts. However, the argued citations of the specification are not included in the claim. Thus, the Examiner will not be able to interpret the claims as they have included those cited locations of the original specification.

In addition, McLaine et al. U.S. Patent No. 6,037,971 ("McLaine") teaches a concept of re-establish contrasts of said color records for an anaglyphic (a process of adjusting/correcting colors to compensate the over or underexposure of anaglyphic image) (abstract; column 3, lines 20-25; and column 4, lines 30-38)

To further assist the Applicant with the guidance with claim language interpretations so that the Applicant can add further/more details limitations from the specification to the claims to overcome the prior arts, the Examiner is presenting MPEP, section 2111, Claim Interpretation; Broadest Reasonable Interpretation as follow: "The court explained that "reading a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim." The court found that applicant was advocating the latter, i.e., the impermissible importation of subject matter from the specification into the claim.). See also *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same

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manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant's specification.")"

The Examiner believes that all the arguments of the Applicant have been properly addressed and explained. Thus, the rejections of all of the claims are maintained.

Election/Restrictions

2. As Examiner Noted, other claims directed to Non-elected Species still exist in the present invention. However, these claims have been withdrawn from consideration and thus should have been canceled.

Specification

3. The amendment filed 05/25/2007 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The amended specification submitted 05/25/2007 regarding the amendment of filter values introduces new filter values and thus introduces new matter into the disclosure. According to 35 U.S.C. 132 (a) states that no amendment shall introduce new matter into the disclosure of the invention.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 53-58, 80 and 86 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding independent claim 53, there is no support found in the original specification for the amended limitation "...re-establish contrasts of said color records of an anaglyphic...".

Regarding claim 86, nowhere in the specification discloses the new claim "...where said selective color treatment and said color channel allocation are effected to each image of said image pair in a single sweep.". The support for "single sweep" was found; however, in the context as cited in the claim, the specification does not provide the disclosure as claimed.

The Applicant is required to show the exact location (page number and line number) for the amended limitations and new claim.

The claims not mentioned are rejected because of their dependence on the independent claims.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 53-58, 80 and 86 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claim 53, it is not clear what “from within color channel allocations” means or what it refers to?

Regarding claim 58, it is not clear whether “images, being anaglyphic record” or “the method of claim 53 wherein images being anaglyphic record produced” is claimed? The Examiner suggests to amend the claim to make it clear that the method of claim 53 wherein images being anaglyphic record produced, because claiming the images produced is non-statutory subject matter and would be rejected under 35 U.S.C. 101.

Regarding claim 86, the claim is rejected because the claim is very difficult to understand due to the use of confusing language. One skilled in the art cannot make sense out of the statement “color channel allocation are effected to each image of said image pair in a single sweep”. Appropriate correction is required. The prior art rejection based on the Examiner’s best understanding.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 53-55, 58, 80 and 86 are rejected under 35 U.S.C. 102(b) as being anticipated by McLaine et al. (U S Patent 6,037,971).

As to claim 53 [As best understood by the Examiner], McLaine discloses anaglyphic production method for anaglyphic record, including steps of,

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- a. isolating or synchronizing images to achieve an image pair that consists of a first image or images and a second image or images [two related images (pair) captured by two separate left and right cameras (Fig. 4, col. 7, lines 9-15),
- b. effecting selective color treatment to color records within said image pair to re-establish contrasts of said color records for an anaglyphic perception (a process of adjusting/correcting colors to compensate the over or underexposure of anaglyphic image) (abstract; column 3, lines 20-25; and column 4, lines 30-38) of viewed contrast balance between the said image pair from within color channel allocations [the level of intensity (contrast) of the red color is examined to determine the percentage of color values fall at the upper (maximum) and lower (minimum) ends of the red color value and adjust it (col. 7, lines 37-col. 8, line16) ,
- c. allocating a first anaglyphic color channel to said first image or images [Fig. 4, a red color channel (first anaglyphic color channel) is allocated by the color separator to the first image from the first camera)] and allocating second and third anaglyphic color channels to said second image or images resulting in spectrally opposed anaglyphic color channels [[Fig. 4, a green and blue color channels (second and third anaglyphic color channels) are allocated by the color separator to the second image from the second camera), R,G,B, are spectrally opposed color channels].
- d. blending the said image pair as a single anaglyphic image [Fig.4, color plane combiner combines the red image plane with the blue-green image planes to create a single 3D anaglyphic representation (col. 5, lines 9-13, col. 7, lines17-24).

As to claim 54, McLaine further discloses, where contrast or brightness of the anaglyphic image is optimised (col. 7, line 54-col. 8, line16).

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As to claim 55, McLaine further discloses, where said selective color treatments are applied either to individual color records or to the entire color records of said image pair (col. 8, lines 4-17).

As to claim 55, McLaine further discloses anaglyphic record producing images (col. 4, lines 19-23).

Claim 80 is an apparatus analogous to claim 53 method and arguments applied to claim 53 are applicable to claim 80.

For claim 86, McLaine teaches Anaglyphic production where said selective color treatment and said color channel allocation are effected to each image of said image pair in a single sweep (frame grabber) (column 3, lines 39-44).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over McLaine et al. (U S Patent 6,037,971) as applied to claim 53 above, and further in view of Swift et al. (U S 2005/0078108).

As to claim 57 [As best understood by the Examiner], McLaine is selectively optimizing the color value of color records (red and/or green) in the pair of images (Col. 4, lines 14-23). The color value is a color intensity (overall brightness of the color) optimized to the nth degree (col.

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6, lines 37-41, col. 8, lines 4-17). McLaine does not disclose where luminosity compression is applied to said image pair to the nth degree.

Swift discloses an anaglyph method include independent compression of the left and right images which provides better quality display output of the anaglyphic image by providing less compression artifacts and reduces crosstalk when compared to anaglyphic storage techniques [0030, and 0060]. It would have been obvious to one with ordinary skill in the art at the time the invention was made to use Swift's teachings to modify McLaine's method by compressing the image pair in order to provide better quality display output of the anaglyphic image by providing less compression artifacts and reduces crosstalk when compared to anaglyphic storage techniques [0030, and 0060]. The combined method of McLaine and Swift compresses the brightness (luminosity) of the color because McLaine as disclosed above corrects the brightness of the color to provide quality image.

Allowable Subject Matter

12. Claim 56 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Contact Information

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Q. Le whose telephone number is 571-272-7424. The examiner can normally be reached on 8:30 A.M - 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Brian Le". The signature is fluid and cursive, with the first name "Brian" and last name "Le" clearly distinguishable.

Brian Le
July 26, 2007